IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.MC.No. 2735 of 2007()

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[CRIME NO.209/2007 OF KUNNAMANGALAM POLICE STATION]

PETITIONER/ACCUSED NOS.1 TO 3:

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1. VIJESH, S/O.PADMANABHAN NAIR,
MANNAMPARAMBATH HOUSE,
P.O..KUNNAMANGALAM,
KOZHIKODE DISTRICT.

2. VIPIN RAJ, S/O.BABU RAJ,
MANNAMPARAMBATH HOUSE,
P.O..KUNNAMANGALAM,
KOZHIKODE DISTRICT.

3. SREEJITH,
S/O.SREEDHARAN NAIR,
MELEPATTOTH HOUSE,
P.O..KUNNAMANGALAM,
KOZHIKODE DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT/COMPLAINANT:

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STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE,
KUNNAMANGALAM POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.2735 of 2007

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Dated this the 24th day of August 2007

**O R D E R**

Petitioners are accused 1 to 3 in a crime registered inter alia under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act. All other offences are bailable. According to the petitioners, the petitioners are absolutely innocent. Since the offences alleged include the offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act, the petitioners are unable to seek anticipatory bail. The petitioners are willing to surrender before the learned Magistrate. The petitioners apprehend that the learned Magistrate may not consider their application for bail on merits inasmuch as the offence is triable exclusively by the Special/Sessions Court under Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act. The petitioners further apprehend that their application may not be considered by the learned Magistrate expeditiously.

2. I find no merit in the apprehensions. It is for the petitioners to appear before the learned Magistrate and seek regular bail. Needless to say, such application for regular bail must be considered by the learned Magistrate in accordance with law and expeditiously. It has been repeated by this court time and again in Ali

v. State of Kerala [2000(2) KLT 280, Shanu v. State of Kerala [2000(3) KLT 452, Krishnakumar v. State of Kerala [20005(1) KLD(Cri.)42] and P.P.Kader v. State of Kerala [2005(1) KLD(Cri.)250] that the mere fact the offence triable exclusively by a court of Session shall not persuade the learned Magistrate to abdicate the jurisdiction under Section 437 Cr.P.C in respect of offences punishable under Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act. In Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339] it has been made clear that application for bail filed by the accused persons on surrender must be disposed of on merits and expeditiously.

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioners.

**(R.BASANT, JUDGE)**

jsr

// True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007